

## **A Critical Review on the Protection and Promotion of Working Women regarding Maternity Benefit Rights: Bangladesh Perspective**

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### **Abstract**

*The last decade has witnessed an impressive rise of women in the workforce in Bangladesh. But women have to face a lot of unavoidable and irresistible constraints at workplace. Women have come a long way but there are some areas where women rights are still violated like as maternity benefit and other benefits, sexual harassment and equal employment opportunities. That's why; women fail to build up their career. There are also so many differences between public and private sectors to ensure women rights. So, this paper seeks to mention the provision of maternity benefit and its effect in the field of public and private area.*

**Keywords:** *Promotion and Protection, Working Women, Maternity benefit rights, Leave, Discrimination.*

### **Introduction**

Working women in Bangladesh are increasing day by day as it has become the demand of time. Now women do not want to be dependent on others financially. In Bangladesh the number of women working has gone up in the last 20 years. According to World Bank Statistics, the number of women working in 1980 was approximately 14 million whereas in 2004 it was 23 million. According to Labour Force Survey 2006, of the Bangladesh Bureau of Statistics (BBS), the total estimated civilian labour forces of the country is 60.3 million and among them 37.81% are female (Rumana Liza Anam, 2008). Women are increasingly entering into the job market mainly in readymade garments, tea garden, NGOs, health care services, food processing industry, export processing zone, service sectors and commercial enterprises and informal sectors etc. In Bangladesh the root of social security system and laws are based upon rules and regulation introduced by the British Colonial regime. There is no specific national policy at present on safety, net issue and very little discussion took place in society on this regard, one of the important safety net issue for all working women is maternity benefit right. But in Bangladesh the majority of the women workers are deprived from this right.

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“Maternity Benefit” means leave with wages granted to a female worker because of her giving birth to a child (Paul, 2008). Maternity is a condition which requires differential treatment to achieve genuine equality and, in this sense, it is more of a premise of the principle of equality than a dispensation (ILO, 1996). Generally, maternity leave is available to mothers only (Thevenon & Solaz, 2013). At first, maternity leaves were introduced to protect the health of working mothers and their newborn child (Thevenon & Solaz, 2013), to protect female workers from heavy work conditions, and later, to pre-serve job opportunities of young mothers who want to return job after birth (Zhelyazkova, 2013). Maternity leave is important as future cognitive and emotional development (Harris, 1983; Lewis & Brooks-Gunn, 1979); to improve the welfare of children, and expansions, increase in the quantity and quality of child-parent interactions (Dustmann & Schonberg, 2011). It is also important for the health and wellbeing of mothers and children; child development; family formation and functionality; women’s labor-force attachment and career progression; and gender equality in paid employment and the household (Galtry & Callister, 2005; Carneiro et al., 2011) and reducing maternal and child mortality (Younes et al., 2012). Mostly it is important to facilitate breastfeeding and to prevent some adverse health consequences for the mother and child (Barger et al., 2005); raise the labor market participation (Kan et al., 2011) and avoid many unobservable attributes that affect child development (Dustmann & Schonberg, 2008, 2011; Carneiro et al., 2011). Maternity benefits promote children’s development (Hays, 1996; Bainchi et al., 2006).

In Bangladesh, there was some discrimination found in maternity leave administration in few sectors. It was seen in the garment sector that most women were restricted to leave their jobs after the birth of their children and if they hunted to start work again in the same factory they would have to start as new employees with lower wages and salaries instead of returning to their former positions; and some owners provided leave to their employees but did not pay them as per the provisions of the Law (Anam, 2008).

Female employees in the public sectors enjoy six months maternity leave. The Finance Ministry issued a gazette of notification amending Rule 197(1) of Part-I of the Bangladesh Service Rules provide for permanent government servants, the right to take six months but still The Bangladesh Labour Act provides a worker with the right to take 16 weeks maternity leave. As a result the workers employed in the private sector are given one third of the maternity leave than the women permanently employed in the public sector. Most of the working women in the private sectors entitles such as schools, NGO’S, apparel industries, practically do not enjoy maternity leaves that they are entitled to ( Alpha Arzu,2011).A mother is always a mother. Her needs and those of her children do not vary by the types of work she does. Women are working in different sectors and that the proportion of government women employees is very low compared to private sectors workers ( Fahima Nasrin,2011). Most female workers do not get the statutory current minimum four months of maternity leave. The Bangladesh Labour Act 2006 stipulates that a female worker can enjoy maternity leave for eight weeks before delivery and another eight weeks after delivery (Alpha Arzu,2011).Working mothers still face problems with their newborn babies as most of the offices in the private sectors do not grant them maternity leave. The main focus of this paper is to identify the area where maternity rights are still violated and mention the variation of maternity benefit in public and private sectors.

## **Objectives**

### **Objectives of the study are as follows:**

- To review the maternity protection laws for all working women considering present Bangladesh situation,
- To review the legal instruments and implementation statues and weakness of maternity protection for all women workers in the field of public and private sectors;
- Give a brief picture of maternity benefits provided for working women;
- To mention the variations of maternity leave provisions industry wise and between local and private sectors.

## **Methodology**

This paper has been written on the basis of primary and secondary information. For primary data 34 respondents were interviewed to get the information from garments sectors. They were interviewed through some relevant questions to assemble more relevant information. The secondary information and data were collected from published books, journals, research papers, and published government laws, newspapers, articles and the internet were also used.

## **Maternity Protection Laws and Related Policies in Bangladesh:**

The century old labour law system in Bangladesh was enacted during the British rule of the subcontinent, in 1881. Later, laws concerning different labour issues, e.g., The Factories Act (1881), Workmen's Compensation Act (1923), Trade Unions Act (1926), Trade Disputes Act (1929), Payment of Wages Act (1936), Maternity Benefits Act (1939), and the Employment of Children Act (1938) were a few of the employment/labour laws enacted during that period. After the separation of the Indian sub-continent in 1947, almost all the laws during the pre-partition period were kept in force with some modifications and amendments, in the form of administrative rules, by the Pakistan Government.

After the independence in 1971, the Bangladesh government retained the previous laws through the Bangladesh Laws Order (President's Order No. 48). No major development took place in the history of labour legislation till the enactment of the Bangladesh Labour Act, 2006. The Bangladesh Labour Act, 2006 is a major and comprehensive enactment regarding industrial relation system through codification of existing labour laws in order to avoid overlapping and inconsistencies and brought some significant changes in industrial relation system.

Before the amalgamation of all the labour laws through the Bangladesh Labour Act 2006, there were three distinct acts for the regulation of maternity benefits for women for certain periods before and after child birth and for the payment of maternity benefits to them. These were The Maternity Benefits Act 1939 (which was most widely used in manufacturing, service and other organizations), The Mines Maternity Benefit Act 1941, and The Maternity Benefits (Tea Estate) Act 1950. All three of these acts have been repealed and amalgamated into the new labour laws under Chapter IV as "Maternity Benefits".

The maternity leave policy available to women in Bangladesh is 16 weeks with full payment. However, interestingly enough, there are no specific laws that exist for management level (women) staff. The law that exists is “Bangladesh Sromo Ain, 2006” or The Bangladesh Labour Act, 2006 given in Chapter IV called Maternity Benefit, referring to workers that do manual work mainly in factories, etc. The leave period that is guaranteed to non-management women workers is similar to Pakistan, Singapore and Sri-Lanka from the Asian region.

**Table 1: A comparison between the current and previous provisions**

<b>Comparison Criteria</b>	<b>Maternity Benefits (MB), Chapter IV under BLA 2006</b>	<b>Maternity Benefits Act, 1939 (widely used previously)</b>	<b>The Changes</b>
<b>Leave Duration</b> (Sec 46)	16 weeks (8 weeks prior and 8 weeks post-delivery)	12 weeks (6 weeks prior and 6 weeks post-delivery)	An extension of 4 weeks
<b>Eligibility</b> (Sec 46)	Have served at least a minimum of 6 months with current employer	Have served at least 9 months with current employer	Eligibility criteria relaxed by 3 months
<b>Employment type eligible</b>	Those employment in permanent capacity	Same	No changes in eligibility:
<b>Funding Sources</b>	Employer funded,	Employer Funded	No changes
<b>Procedure of payment</b> (Sec 47)	<p>3 options are available:</p> <ul style="list-style-type: none"> <li>• Payment of 8 weeks of salary within 3 days of submitting proof of pregnancy and remaining 8 weeks 3 days after submission of proof of delivery.</li> <li>• Payment of 8 weeks of salary within 3 days of submitting proof of pregnancy and remaining within 8 weeks after submission of proof of delivery.</li> <li>• The whole amount (16 weeks' salary) within 3 days of proof of delivery.</li> </ul>	To be paid within 48 hours of submission of certificate of pregnancy or delivery (Sec 5)	Has been relaxed from employer's perspective

<b>Amount to be paid</b>	Total wages/ salary earned during the preceding 3 months prior to availing leave divided by the number of days actually worked (during that period)	Same	No changes
<b>Denial of eligibility</b>	<ul style="list-style-type: none"> <li>Those who have worked less than 6 months</li> <li>Those who have 2 or more surviving children, they can avail other leave(s)- sick/ annual/casual etc.</li> </ul>	Those who have not completed 9 months of active service with current employer	A major step in benefit provision of limiting to two children only

### Present Maternity Leave Situation in Bangladesh:

It is a matter of concern that ready-made garments and industries do not provide maternity leave for four months and most establishments grant maternity leave only without pay. Hence, many female workers do not want to bear child because of fear of losing their job. Majority of the women workers are often fired by their employers when they become pregnant, or sent on leave without pay (BILS, 2010). A survey was made on the workers of a textile Limited, export oriented garments manufacturing unit, where 800 women workers have worked. Among them 34 workers were agreed to interview for this report.

**Table-2: Interviews of women workers**

Designation	No. of Workers	%
Operator	12	35
Quality Inspector	08	24
Helper (sewing)	05	15
Helper (Cutting)	02	06
cleaner	03	09
Packing Helper	04	12
Total	34	100%

53% of the respondents said that 3 month basic wage was given as maternity benefit, where 25% of the respondents said that two month basic wage was given as maternity benefit. On the other hand 22% of the respondents informed that no such benefit was given to them.

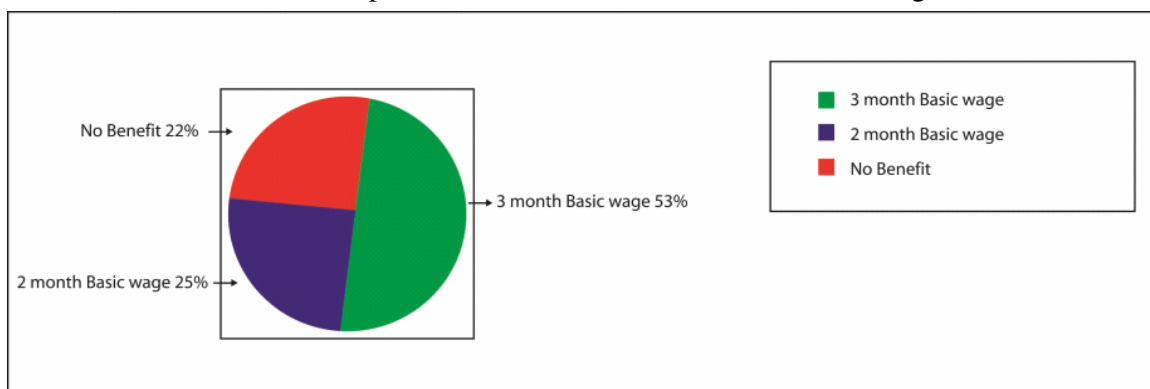


Chart-01

In case of maternity leave practices at NGOs in Bangladesh, almost all employees (99%) get this leave for first and second children and they usually get three or four months' salary as maternity leave period. Clearly, the government rule about duration of maternity leave is six months in Bangladesh but no NGO's follows this rule properly. On the other hand, Bangladesh Bank is giving six-month maternity leave to the women employees and it also circulated a notice to all banks and financial institutions to practice this rule. But it is a matter of regret that other than the state-owned banks, most of the banks don't show any respect to the order. In case of private schools, colleges and universities four month maternity leave and benefit is given to the women employees. Many organizations grant two months additional leave without salary. But still it is not given in a proper way. Women who worked under other commercial establishments get three months maternity benefit only.

### **Findings of the study:**

**Lack of awareness among women workers:** The workers who become pregnant leave the job without applying for any official leave, and join another factory after the birth of the children. They leave only with the payment of the month they have worked. Even in some cases the workers getting maternity leave from the authorities don't come back to work after the birth of their child. This is due to the lack of knowledge among the workers about the provisions regarding maternity leave and benefit.

**Fearing loss of the job:** The workers, especially who works under garments and commercial establishment has the tendency to hide the realities existing there regarding maternity leave and benefits because of the fear of losing their job.

**Avoidance of married female workers:** Normally the authorities of garments and other private sectors don't prefer to appoint married female worker. In garments it would be very hard to find pregnant female workers.

**Weakness of relevant rules:** There has been a wide variety of rules and regulations being made by the private sectors which are in most cases inconsistent with the main Labour Act-2006. Private organizations and commercial establishments follow their own service rules. For this the rules regarding benefit is always different and discriminating.

**Discrimination:** Maternity leave is matter of discrimination in public and private sectors. It is very unfortunate that many private sector employers do not allow six-month maternity leave to the expectant mothers working in their organizations, though all the government offices have already implemented it.

**Acts and lacks of enforcement:** Private sectors follow their own arbitrary rules. How far these rules are properly applied by the authorities in these sectors is a big question. Government only expresses few words of sympathy but no other national mechanism taken by the government to implement these rights properly in this area.

**Negative attitude of the employers to violate the rules:** In most cases women workers and employees are not supported by their superior/manager. No additional facilities are given by the employers to look after the pregnant women workers.

**Monitoring the relevant laws at workplace level:** There is no such relevant body to monitor the existing rules which are followed by the private sectors.

**Raise voice on maternity benefit rights by women workers:** The women organization working for the rights and empowerment of women but they are not vocal on maternity benefits rights of women workers.

**Non co operation from media:** Medias are not much active to address the issue

### **Recommendations:**

Following are some proposed modifications that might assist to balance the negativities:

- As the women employees and workers are enjoying six month of maternity leave in government service. So It is recommended that the same facilities should be provided to the private sectors
- The government should establish a monitoring cell to observe that each and every organization is providing such facilities to all working women.
- The rules and regulations of service should be made in a way which encourages the working women to continue to doing service after the leave of the maternity expires.
- Extensive propagandas should be adopted to create awareness among the working women about the provision of law regarding maternity benefit, so that they can get full benefit of it.
- The existing laws are needed to be reviewed and the scope and nature should make more convenient for the working women.
- There should be wide scope on the part of female employees to change any inconsistency and injustice done by the employers.
- Different women organization should come forward with diverse awareness raising activities among female workers to address the issue.
- Medias should come forward and address the issue in different news program.
- Because it is a matter of privilege, private sectors should take policies which is common for all.

### **Conclusion:**

Maternity leave is an important benefit for working women and it plays an important role to increase organizational loyalty, efficiency, and job satisfaction. Discrimination in maternity leave entitlements for working women resulting from inconsistencies between the Labour Code 2006 and the amended Bangladesh Service rule is a cause of significant concern. Non implementation of the existing laws particularly related to maternity leave and lacks of monitoring in the private sectors hinder the proper care for mother and child. In this regard, government should ensure a proper implementation of the existing laws along with increasing the facilities for private sectors working women. In case of private sectors women need the privilege more than the government employees, as most of them are vulnerable both financially and physically.

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